

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-CR-322-D

UNITED STATES OF AMERICA

v.

REGINALD LOVE BROWN,

Defendant.

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ORDER

Reginald Love Brown (“Brown” or “defendant”) objected to classification in his Presentence Investigation Report as a career offender under U.S.S.G. § 4B1.1. Should Brown not be considered a career offender pursuant to section 4B1.1, the court is considering an upward departure because Brown’s criminal history category substantially underrepresents the seriousness of his criminal history or the likelihood that he will commit other crimes. See Fed. R. Crim. P. 32(h); U.S.S.G. §§ 2K2.4, cmt. n.2(B) & 4A1.3(a); see United States v. Lawrence, 349 F.3d 724, 729 (4th Cir. 2003). Furthermore, the court notes that a departure under U.S.S.G. § 2K2.4, cmt. n.4, may also be appropriate. See United States v. Johnson, 249 F. App’x 713, 724–26 (10th Cir. 2007) (unpublished); United States v. Banks-Giombetti, 245 F.3d 949, 953–54 (7th Cir. 2001); United States v. Collins, 226 F.3d 457, 465–66 (6th Cir. 2000). Finally, the court notes that an obstruction of justice enhancement under section 3C1.1 may also be warranted.

SO ORDERED. This 3 day of August 2011.


JAMES C. DEVER III
United States District Judge